

MAR 3 2003

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

CONNECTICUT GENERAL LIFE
INSURANCE COMPANY, et al.,

Plaintiffs - Appellees,

v.

NEW IMAGES OF BEVERLY HILLS, et al.,

Defendants,

and

HAYA ZILKA,

Defendant - Appellant.

No. 03-55199

D.C. No. CV-99-08197-TJH

ORDER*

Appeal from the United States District Court
for the Central District of California
Terry J. Hatter, Chief District Judge, Presiding

Submitted March 3, 2003**
Pasadena, California

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Before: B. FLETCHER and HAWKINS, Circuit Judges, and BURY,^{***} District Judge.

Plaintiffs-Appellees' motion to dismiss for lack of jurisdiction is GRANTED.

“Orders of civil contempt entered against a party during the course of a pending civil action are not appealable until final judgment.” See SEC v. Elmas Trading Corp., 824 F.2d 732, 732 (9th Cir. 1987). We have conducted a limited review of the record to determine whether the contempt is criminal or civil and conclude that the order at issue is civil. The order is intended to coerce Zilka to produce demanded documents and to restore funds that were improperly transferred in violation of the court's earlier injunction. See F. J. Hanshaw Enters., Inc. v. Emerald River Dev., Inc., 244 F.3d 1128, 1137-38 (9th Cir. 2001) (contempt is civil if it coerces the defendant into compliance with a court's order or compensates for losses sustained) (internal quotation marks omitted).

We do note, however, that Zilka has by now complied with a number of the disclosure requirements set forth in the order, as the order appears to have been based on an earlier proposed order that predated many of these disclosures. It would thus be appropriate for the district court to update the incarceration order to eliminate any provisions that have been satisfied and thus further clarify that Zilka does carry “the

^{***}The Honorable David C. Bury, United States District Judge for the District of Arizona, sitting by designation.

keys of [her] prison in [her] own pocket[.]” Id. at 732 (internal quotation omitted). To forestall any future argument to the contrary by appellant, our making this suggestion to the district court does not reflect in any way any dissatisfaction with its conduct in this matter thus far.

We are also mindful of Zilka’s concern that final judgment has not yet been entered in this matter and assume that the district court will attend to its entry within a reasonable time. This panel shall retain jurisdiction over any appeal from such final judgment.

DISMISSED.